

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DAWN RENEE HERIOT,

Plaintiff,

v.

Case No. 09-CV-14783

591182 ONTARIO LIMITED, et al.,

Defendants.

ORDER STRIKING CERTAIN FILINGS

On six different days the parties have made nine docket entries, often not in compliance with the Local Rules, leaving the docket in a state of disarray. Defendants seek dismissal as a discovery sanction as well as summary judgment. To accomplish this purpose, Defendants have filed three separate motions, docketed as, "Motion to Dismiss and For Sanction," "Motion to Dismiss (Amended)," and "Motion to Dismiss (Supplement to Motion and Brief)." Additionally, Defendants filed three appendices on June 15, 2010, and an affidavit of Larry Baareman on June 18, 2010. Instead of filing a response to these motions, on June 29, 2010, Plaintiff filed a combined "Reply" and "Cross Motion for Partial Summary Judgment." On June 30, 2010, Plaintiff filed an appendix. Because many of these filings have not complied with the Local Rules, the court will strike them.

Defendants have filed three separate motions for summary judgment in violation of Local Rule 7.1(b)(2), which provides that "[a] party must obtain leave of court to file more than one motion for summary judgment." To the extent that Defendants were seeking to file "additional affidavits or other documents" in support of their first motion,

Local Rule 7.1(g) provides a mechanism for seeking court approval. Defendants never sought approval from the court. The court will therefore strike Defendants' recent filings.

Plaintiff violated the Local Rules and this court's Practice Guidelines¹ by combining its response to Defendants' motion(s) with its own cross motion for summary judgment. The Local Rules and the court's Practice Guidelines require that motions and responses be accompanied by a separate brief. E.D. Mich. LR 7.1(d); Motion Practice (Civil) Guidelines. Under no circumstances may a motion be included within or tacked onto a response or a reply. See E.D. Mich. LR 5.1.1; ECF Policies & Procedures R.5(e) ("[A] response or reply to a motion must not be combined with a counter-motion. Papers filed in violation of this rule will be stricken."); Motion Practice (Civil) Guidelines. The court will therefore strike Plaintiff's recent filings.

The parties are free to refile their motions, exhibits, and responses in compliance with the Local Rules.

In addition, the court directs both counsel to read the Eastern District of Michigan's Civility Principles,² to which all counsel agree when they are admitted to practice before this court. Subsequent filings in this case shall reflect that counsel have read and understood these principles. The court is confident that even where an attorney finds that he must bring to the court's attention a substantive problem associated with an opposing counsel's failure to comply with the court's civility principles—which in themselves confer no substantive rights—the attorney should be

¹<http://www.mied.uscourts.gov/Judges/guidelines/index.cfm?judgeID=12>

²<http://www.mied.uscourts.gov/rules/plans/08-AO-009.pdf>

able to articulate the problem without expressing himself in a manner that independently runs afoul of those very principles.

IT IS ORDERED that Defendants' "Motion to Dismiss and For Sanctions" [Dkt. #16] and accompanying Appendices [Dkt. ## 17, 18, 19], "Motion to Dismiss (Amended)" [Dkt. # 20], "Affidavit of Larry Baareman" [Dkt. # 21], and "Motion to Dismiss (Supplement to Motion and Brief)" [Dkt. # 22] are STRICKEN.

IT IS FURTHER ORDERED that Plaintiff's "Response to Motion to Dismiss . . . and . . . Cross Motion for Partial Summary Judgment" [Dkt. # 23] and Appendix [Dkt. # 24] are STRICKEN.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: July 2, 2010

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, July 2, 2010, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522